



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,485	06/15/2001	Jay H. Connelly	042390P11866	8135

7590 01/11/2006

James Y. Go  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER

FISH, JAMIESON W

ART UNIT	PAPER NUMBER
----------	--------------

2617

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/882,485

Applicant(s)

CONNELLY, JAY H.

Examiner

Jamieson W. Fish

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 81-103 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 81-103 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims **1, 81-103** have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

Claims **82, 86, 83** and **94** recite the limitation "the server" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Objections***

Claim **95** is objected to because of the following informalities: line 3 recites the limitation "the server;" "the" should be replaced with "a." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1, 82, 86-88, 91-92, 94-96, 98-101, and 103** are rejected under 35 U.S.C. 102(b) as being anticipated by Billock et al (5,619,249).

Regarding claims **1, 91, 95, and 99**, Billock teaches broadcasting first content descriptors to one or more clients, the first content descriptors describing content for broadcast (See Fig. 6, Fig. 9A Step 108 and Col. 9 lines 29-36, Col. 13 lines 1-58 Program Names and Categories are broadcast); prioritizing the

Art Unit: 2617

content in response to a feedback received from the one or more clients wherein the feedback sent by the one or more clients is based on the amount of content consumed by the one or more clients (See Fig. 7, Fig. 8, Fig. 9D Step 162, Fig. 9E Step 176, Col. 11 lines 32-42, Col. 12 lines 30-41, Col. 15 lines 15-27, 59-67, Col. 16 lines 1-9 Previews are shown for a user selected genre of programs); broadcasting second content descriptors, the second content descriptors describing the prioritized content for broadcast (See Fig. 9D Step 162 Col. 15 lines 15-28); broadcasting the prioritized content to the one or more clients (See Fig. 9H and Col. 17 lines 15-56).

Regarding claims **81, 92, 96, 101** Billock teaches wherein the feedback received from one or more clients is received in a batch (When one client submits feedback, the feed back is received in a batch of one).

Regarding claim **86, 94, 98, 103** Billock teaches filtering the content received for a server based on the content the one or more clients are interested in (See Col. 17 lines 15-56 User transmits program ID program is transmitted).

Regarding claim **87**, Billock teaches wherein the first and second content descriptors include metadata to describe the content and the prioritized content (See Fig. 6, Fig. 9A Step 108 and Col. 9 lines 29-36, Col. 13 lines 1-58 Program Names and Categories are broadcast).

Regarding claim **88**, Billock teaches generating the second content descriptors in response to the feedback received from the one or more clients, the feedback including a demand indicating a level of desirability for the content (See Fig. 7, Fig. 8, Fig. 9D Step 162, Fig. 9E Step 176, Col. 11 lines 32-42, Col.

Art Unit: 2617

12 lines 30-41, Col. 15 lines 15-27, 59-67, Col. 16 lines 1-9. Previews are shown for a user selected genre of programs or more information about the programs is shown).

Regarding claim **100**, Billock teaches wherein the first computer system comprises a server, and the second computer system comprises a client (See Fig. 1 and Col. 3 lines 54-65).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims **82, 93, 97, 102** are rejected under 35 U.S.C. 103(a) as being unpatentable over Billock.

Regarding claims **82, 93, 97, 102**, Billock fails to disclose the method further comprising staggering the sending of the feedback to a server by the one or more clients, wherein the staggering is based on a last time each of the one or more clients sent feedback to the server. Official Notice is taken that it is well known in network communications to stagger the sending of information across the network to minimize network congestion. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Billock so that the sending of feedback was staggered to minimize network congestion.

Claims **83-85** and **89-90** are rejected under 35 U.S.C. 103(a) as being unpatentable over Billock in view of Payton (US 5,790,935).

Art Unit: 2617

Regarding claims **83-85, 90** Billock fails to teach updating demand data tables and storing content in accordance with demand tables. Payton teaches updating demand data tables and storing content in accordance with demand data table (See Col. 6 lines 33-50 and Col. 7 line 61-Col. 8 line 10, User feedback determines with movies will be stored on the local servers).

Regarding claim **89**, Billock fails to disclose the prioritizing of the content comprising generating a list of demanded content of the content in accordance with the level of desirability. Payton teaches generating a list of recommend content based on user feedback (See Col. 6 lines 33-50 and Col. 7 line 61-Col. 8 line 10, User feedback determines with movies will be stored on the local servers). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Billock to generate a list of demanded content of the content in accordance with the level of desirability to reduce the probability that an on-demand request will be made from the central distribution server (See Payton Col. 6 lines 33-36).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory

Art Unit: 2617

action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamieson W. Fish whose telephone number is 571-272-7307. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2617

JF 01-06-2006

  
CHRIS KELLEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600